

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0364

## HOUSE BILL NO. 1078

Introduced by: The Committee on State Affairs at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to prohibit acts of terrorism against persons engaged in a  
2 state university activity involving live animals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "State university activity involving live animals," includes:

6 (a) University sponsored research, teaching, study, or veterinary practice  
7 involving live animal subjects;

8 (b) University sponsored athletic competition involving live animals;

9 (c) Feeding, care, breeding, rearing, transport, marketing, and other actions  
10 incidental to the custody of university-owned live animals;

11 (d) Maintenance, repair, and operation of university live animal facilities; or

12 (e) Management, supervision, compliance, oversight, and governance of persons,  
13 programs, facilities, and operations involving live animal subjects.

14 (2) "Terrorism against persons engaged in state university activities involving live  
15 animals," any violation of sections 2, 3, or 4 of this Act;



- 1       (3)    "Protected person," any person who is a state university employee, student,  
2            participant, spectator, visitor, or facility landlord, or who provides goods or services  
3            to a state university activity involving live animals;
- 4       (4)    "Course of conduct," a pattern of conduct composed of two or more acts, evidencing  
5            a continuity of purpose;
- 6       (5)    "Harassment," a course of conduct intended to intimidate, annoy, or frighten another  
7            person or that would cause a reasonable person to feel intimidated, annoyed, or  
8            frightened and that actually causes the victim to feel intimidated, annoyed, or  
9            frightened;
- 10      (6)    "Immediate family," a spouse, parent, child, any person related by consanguinity or  
11            affinity within the second degree, or any other person who regularly resides in the  
12            household, or who, within the prior six months, regularly resided in the household;
- 13      (7)    "Information," includes texts, tables, graphs, maps or other communications in fixed  
14            tangible media, audio recordings, and images, films, filmstrips, photographs,  
15            negatives, slides, photocopies, videotapes, video laser discs, or any other  
16            computer-generated images;
- 17      (8)    "Intent to communicate a threat," intentionally or knowingly communicating a true  
18            threat to the object of the purported threat or to a third party. The speaker need not  
19            actually intend to carry out the threat;
- 20      (8)    "Intimidation," a type of true threat, in which a speaker directs a threat to a person or  
21            group of persons with the intent of placing the victim in fear of bodily harm or death;
- 22      (9)    "Publishes," making the information available to another person through any  
23            medium, including the internet, the world wide web, or e-mail;
- 24      (10)   "Serious bodily injury,":

- (a) Communicate with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm;

1 (b) Place a simulated explosive or simulated incendiary device in or near a  
2 building, vehicle, airplane, railroad engine or railroad car, or boat occupied by  
3 another person;

4 (c) Order merchandise or services in the name of another, or to be delivered to  
5 another, without the other person's knowledge or consent; or

6 (d) Report or cause to be reported false information to a law enforcement  
7 authority implicating another in some criminal or unlawful activity, knowing  
8 that the information is false, or reports the alleged occurrence of a criminal or  
9 unlawful act, knowing the act did not occur; or

10 (2) Purposefully and without legitimate purpose, have personal contact with another  
11 person, with the intent to cause that person to perceive a true threat or to intimidate  
12 or to alarm that other person. As used in this subdivision, the term, personal contact,  
13 means an encounter in which two or more people are in visual or physical proximity  
14 to each other. The term does not require a physical touching or oral communication,  
15 although it may include these types of contacts.

16 A violation of this section is a Class 1 misdemeanor.

17 Section 4. No person may publish information describing or depicting a protected person  
18 or the person's immediate family member, or the location or locations where such persons may  
19 be found, for the purpose of interfering with the operations of a state university activity  
20 involving live animals and in connection with such purpose:

21 (1) With the intent to communicate a true threat to the protected person or such person's  
22 immediate family member by publishing such information; or

23 (2) In circumstances in which the information is likely to be used in preparation for, or  
24 in carrying out, the commission of a crime involving violence or a threat of violence

1 against a protected person or the person's immediate family member, with the intent  
2 that another person imminently use the information to commit such a crime involving  
3 violence or a threat of violence against a protected person or the person's immediate  
4 family member.

5 A violation of this section is a Class 1 misdemeanor.

6 Section 5. Any protected person or immediate family member about whom information is  
7 published in violation of section 3 of this Act may seek an injunction enjoining any further  
8 publication of that information.

9 Section 6. That § 20-9-32 be amended to read as follows:

10 20-9-32. In addition to the criminal penalty provided in § 22-19B-1 and this Act, there is a  
11 civil cause of action for malicious harassment or terrorism against persons engaged in a state  
12 university activity involving live animals. The victim of malicious intimidation or harassment  
13 or terrorism against persons engaged in a state university activity involving live animals may  
14 recover both special and general damages, including damages for emotional distress, reasonable  
15 attorney fees and costs, and punitive damages. The civil cause of action for malicious  
16 intimidation or harassment is in addition to any other remedies, criminal or civil, otherwise  
17 available under law.

18 Section 7. The name, home address, work addresses, electronic addresses, or telephone  
19 numbers of protected persons or their immediate families, and information about the location,  
20 premises, structure, building plans, or security systems for state university animal facilities are  
21 not public records unless they are specifically designated as public records by statute of this  
22 state.

23 Section 8. Nothing in this Act may be construed:

24 (1) To prohibit any expressive conduct, including peaceful picketing or other peaceful

1 demonstration, protected from legal prohibition by the First Amendment to the  
2 Constitution;

3 (2) To create new remedies for interference with activities protected by the free speech  
4 or free exercise clauses of the First Amendment to the Constitution, regardless of the  
5 point of view expressed, or to limit any existing legal remedies for such interference;  
6 or

7 (3) To provide exclusive criminal penalties or civil remedies with respect to the conduct  
8 prohibited by this action.